

**STATEMENT OF NJ PUBLIC DEFENDER YVONNE SMITH SEGARS
ON SENATE BILL 1866**

NEW JERSEY STATE SENATE JUDICIARY COMMITTEE

NOVEMBER 23, 2009

Thank you for giving me the opportunity to comment on Senate Bill 1866 - In 1986 New Jersey enacted the Comprehensive Drug Reform Act (CDRA) which has proved to be one of the harshest drug laws of its kind in the nation.

New Jersey incarcerates drug offenders at one of the highest rates in the nation. In 2006, drug offenders comprised 32% of the total inmate population compared to the national average of 20%. 65% of all of these inmates were serving mandatory minimum sentences

One portion of CDRA is commonly referred to as the “school zone” and if an individual is convicted pursuant to this section they face mandatory incarceration. Because School zones are within 1,000 feet of school property, the more populated an area the greater number of zones exists.

In the urban communities where the zones are so numerous the overlapping of the zones in effect makes most urban centers largely school zones in their entirety – This is referred to as the “urban effect”.

In New Jersey, minorities live disproportionately in urban areas. As a result, over 96% of those who have been incarcerated pursuant to the school zone laws are Black and Hispanic. Unfortunately, the school zone law has effectively created a double standard: one for urban communities and one for suburban communities.

As recent as 2007, New Jersey was one of the top three states in the nation leading racial disparities incarcerating African Americans at 12.4 times the rate of whites. While Blacks make up 13% of the general population they represent nearly 70% of the jailed population.

Although unintended, the urban effect of these laws has led to several generations of young black and Hispanic men being ripped from their communities and families. When they ultimately return to the community because of the criminal record that plagues them, they are unable to obtain employment, secure housing, or otherwise become stable. This extreme racially disparate impact calls out for reform.

Based on recent studies, we now can and *must* make data-driven decisions - - rather than emotional and costly ones driven by misguided notions of waging a “war on drugs.”

We also know, through our experience with Drug Courts, that community-based drug rehabilitation can and does work. It costs 1/3 to 1/2 of the cost of incarceration. Additionally, the collateral benefits of treatment rather than incarceration are immeasurable.

Alcohol and substance abuse is a huge health problem exacerbated by poverty but treatment rather than incarceration reduces the rate of recidivism.

People in recovery are able to become productive tax-paying members of our communities.

The amendment that has been proposed enables the sentencing judge to distinguish the violent offender and serious drug

trafficker from the person who can be treated effectively with probationary drug programs.

Individualized sentencing in these cases is also a matter of fundamental fairness. The drug policy of our state must be smart and effective not just *tough*. “One size fits all” mandatory sentencing simply does not work.

Judicial discretion, guided by the sensible factors in this bill, holds the key to more sensible outcomes.

At a time when our budget is so severely strained the public deserves to have its tax dollars spent wisely on alternatives that not only save the government money but have been shown to have better outcomes by relying on evidenced based approaches rather than on incarceration which exacerbates the problem.

Just as the citizens of this state want to live in safe communities they also want to live in communities that they can afford and where equality and justice prevail.

Thank you.